

MMS-2014 for each month during the allowance form reporting period, the lessee will be entitled to a credit without interest.

(2) For lessees transporting production from Indian leases, the lessee must submit a corrected Form MMS-2014 to reflect actual costs, together with any payment, in accordance with instructions provided by ONRR.

(f) *Actual or theoretical losses.* Notwithstanding any other provisions of this subpart, for other than arm's-length contracts, no cost shall be allowed for oil transportation which results from payments (either volumetric or for value) for actual or theoretical losses. This section does not apply when the transportation allowance is based upon a FERC or State regulatory agency approved tariff.

(g) *Other transportation cost determinations.* The provisions of this section shall apply to determine transportation costs when establishing value using a netback valuation procedure or any other procedure that requires deduction of transportation costs.

[61 FR 5455, Feb. 12, 1996. Redesignated at 72 FR 71241, Dec. 17, 2007, as amended at 73 FR 15890, Mar. 26, 2008]

§ 1206.58 What must I do if ONRR finds that I have not properly determined value?

(a) If ONRR finds that you have not properly determined value, you must:

(1) Pay the difference, if any, between the royalty payments you made and those that are due, based upon the value ONRR establishes; and

(2) Pay interest on the difference computed under § 1218.54 of this chapter.

(b) If you are entitled to a credit due to overpayment on Indian leases, see § 1218.53 of this chapter. The credit will be without interest.

[72 FR 71244, Dec. 17, 2007]

§ 1206.59 May I ask ONRR for valuation guidance?

You may ask ONRR for guidance in determining value. You may propose a value method to ONRR. Submit all available data related to your proposal and any additional information ONRR deems necessary. We will promptly re-

view your proposal and provide you with non-binding guidance.

[72 FR 71244, Dec. 17, 2007]

§ 1206.60 What are the quantity and quality bases for royalty settlement?

(a) You must compute royalties on the quantity and quality of oil as measured at the point of settlement approved by BLM for the lease.

(b) If you determine the value of oil under § 1206.52, § 1206.53, or § 1206.54 of this subpart based on a quantity or quality different from the quantity or quality at the point of royalty settlement approved by BLM for the lease, you must adjust the value for those quantity or quality differences.

(c) You may not deduct from the royalty volume or royalty value actual or theoretical losses incurred before the royalty settlement point unless BLM determines that any actual loss was unavoidable.

[72 FR 71244, Dec. 17, 2007]

§ 1206.61 What records must I keep and produce?

(a) On request, you must make available sales, volume, and transportation data for production you sold, purchased, or obtained from the field or area. You must make this data available to ONRR, Indian representatives, or other authorized persons.

(b) You must retain all data relevant to the determination of royalty value. Document retention and recordkeeping requirements are found at §§ 1207.5, 1212.50, and 1212.51 of this chapter. The ONRR, Indian representatives, or other authorized persons may review and audit such data you possess, and ONRR will direct you to use a different value if it determines that the reported value is inconsistent with the requirements of this subpart or the lease.

[72 FR 71244, Dec. 17, 2007]

§ 1206.62 Does ONRR protect information I provide?

The ONRR will keep confidential, to the extent allowed under applicable laws and regulations, any data or other information you submit that is privileged, confidential, or otherwise exempt from disclosure. All requests for

§ 1206.100

information must be submitted under the Freedom of Information Act regulations of the Department of the Interior, 43 CFR part 2.

[72 FR 71244, Dec. 17, 2007]

Subpart C—Federal Oil

SOURCE: 65 FR 14088, Mar. 15, 2000, unless otherwise noted.

§ 1206.100 What is the purpose of this subpart?

(a) This subpart applies to all oil produced from Federal oil and gas leases onshore and on the Outer Continental Shelf (OCS). It explains how you as a lessee must calculate the value of production for royalty purposes consistent with the mineral leasing laws, other applicable laws, and lease terms.

(b) If you are a designee and if you dispose of production on behalf of a lessee, the terms “you” and “your” in this subpart refer to you and not to the lessee. In this circumstance, you must determine and report royalty value for the lessee’s oil by applying the rules in this subpart to your disposition of the lessee’s oil.

(c) If you are a designee and only report for a lessee, and do not dispose of the lessee’s production, references to “you” and “your” in this subpart refer to the lessee and not the designee. In this circumstance, you as a designee must determine and report royalty value for the lessee’s oil by applying the rules in this subpart to the lessee’s disposition of its oil.

(d) If the regulations in this subpart are inconsistent with:

- (1) A Federal statute;
- (2) A settlement agreement between the United States and a lessee resulting from administrative or judicial litigation;
- (3) A written agreement between the lessee and the ONRR Director establishing a method to determine the value of production from any lease that ONRR expects at least would approximate the value established under this subpart; or
- (4) An express provision of an oil and gas lease subject to this subpart, then the statute, settlement agreement, written agreement, or lease provision

30 CFR Ch. XII (7–1–11 Edition)

will govern to the extent of the inconsistency.

(e) ONRR may audit and adjust all royalty payments.

§ 1206.101 What definitions apply to this subpart?

The following definitions apply to this subpart:

Affiliate means a person who controls, is controlled by, or is under common control with another person. For purposes of this subpart:

(1) Ownership or common ownership of more than 50 percent of the voting securities, or instruments of ownership, or other forms of ownership, of another person constitutes control. Ownership of less than 10 percent constitutes a presumption of noncontrol that ONRR may rebut.

(2) If there is ownership or common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership, of another person, ONRR will consider the following factors in determining whether there is control under the circumstances of a particular case:

- (i) The extent to which there are common officers or directors;
- (ii) With respect to the voting securities, or instruments of ownership, or other forms of ownership: the percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other persons, whether a person is the greatest single owner, or whether there is an opposing voting bloc of greater ownership;
- (iii) Operation of a lease, plant, or other facility;
- (iv) The extent of participation by other owners in operations and day-to-day management of a lease, plant, or other facility; and
- (v) Other evidence of power to exercise control over or common control with another person.

(3) Regardless of any percentage of ownership or common ownership, relatives, either by blood or marriage, are affiliates.

ANS means Alaska North Slope (ANS).

Area means a geographic region at least as large as the limits of an oil